

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

FREEDOM HAWK KAYAK, LLC )

*Plaintiff,* )

v. )

YA TAI ELECTRIC )

APPLIANCES CO. LTD )

*Defendants.* )

CIVIL ACTION NO. 7:12-cv-00305-SGW

**MOTION FOR DEFAULT JUDGMENT AGAINST  
DEFENDANT YA TAI ELECTRONIC APPLIANCES CO. LTD**

Plaintiff, Freedom Hawk Kayak, LLC (“Freedom Hawk”) moves the Court, pursuant to Rule 55 of the Federal Rules of Civil Procedure, for a Default Judgment against Defendant Ya Tai Electronic Appliances Co. LTD adjudicating Defendant’s liability to Freedom Hawk, awarding Freedom Hawk preliminary and permanent injunctive relief sought in its Complaint [Dkt. #1], awarding monetary damages and recovery of its reasonable attorneys’ fees and costs incurred in the prosecution of this action.

In support of its Motion, Freedom Hawk respectfully states the following:

1. On July 12, 2012, Freedom Hawk filed a Complaint against Ya Tai alleging infringement of two valid and existing patents filed and owned by Freedom Hawk. The Complaint sought preliminary and permanent injunctive relief, monetary damages and its reasonable expenses including attorneys’ fees.

2. The Summons in a Civil Action and Complaint were personally served via hand delivery upon Ya Tai on July 13, 2012. The Return of Service of Summons Executed [Dkt. #5] filed on July 24, 2102 confirm this service of process.

3. In accordance with Rule 12 of the Federal Rule of Civil Procedure, Ya Tai had twenty (20) days from the date of service, or until August 3, 2012 to plead or otherwise defend.

4. Counsel for Freedom Hawk was contacted by counsel for Ya Tai seeking an extension of 30 days to file a responsive pleadings. Freedom Hawk agreed to an extension and an agreed upon order was submitted to the Court and signed by the Court on August 7, 2012 [Dkt. #6]. The Agreed Order set September 3, 2012 as the date by which Ya Tai had to file responsive pleadings.

5. As of the date of this filing, Ya Tai has failed to plead or otherwise defend and therefore is subject to default judgment as provided by Rule 55 of the Federal Rules of Civil Procedure.

6. Freedom Hawk's Complaint seeks the following relief:

(a) That the Court find that Defendant has infringed one or more claims of Freedom Hawk's Patents.

(b) That Defendant's infringement of the Patents is willful.

(c) That this Court preliminarily and permanently enjoin, pursuant to 35 U.S.C. § 283, Defendant, its officers, agents, attorneys and employees, as well as those acting in privity or concert with any of the foregoing, from further infringement of the Patents for their full term.

(d) That this Court award damages to Freedom Hawk, including pre-judgment and post-judgment interest, in an amount adequate to compensate Freedom Hawk for Defendant's infringement of one or more claims of the Patents.

(e) That the damages awarded to Freedom Hawk be increased to three times the amount found or assessed in accordance with 35 U.S.C. § 284.

(f). That this Court award Freedom Hawk its costs, expenses, attorneys' fees pursuant to 35 U.S.C. § 285 and such other relief as are deemed just and proper.

Respectfully submitted,

FREEDOM HAWK KAYAKS LLC.

By: /s/ Daniel C. Summerlin  
Of Counsel

Daniel C. Summerlin (VSB#41946)  
Joshua F. P. Long (VSB #65684)  
F. Elizabeth Burgin (VSB #74726)  
WOODS ROGERS PLC  
Wachovia Tower, Suite 1400  
10 S. Jefferson Street  
P.O. Box 14125  
Roanoke, Virginia 24038-4125  
540.983.7625 (phone)  
540.983.7611 (fax)  
jlong@woodsrogers.com  
bburgin@woodsrogers.com

*Counsel for Plaintiff Freedom Hawk Kayaks, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10th day of September, 2012, a true and accurate copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, and that a true and accurate copy of the foregoing was sent via the CM/ECF system to the following participant:

Scott Sexton, Esq.  
Kevin Holt, Esq.  
GENTRY LOCKE RAKES & MOORE  
10 Franklin Rd, Suite 800  
Roanoke, Virginia 24011  
*Counsel for Defendant Ya Tai*

/s/ Daniel C. Summerlin